IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18742 of 1997

Between:

1 Banoth China Nagya S/o. Baddu
R/o. Yerra Bangar Village, Kalluru Mandal, Khammam District.
2 Pasumarthi Mohan Rao S/o. Venkateswara Rao
R/o. Yerra Bangar Village, Kalluru Mandal, Khammam District.

..... PETITIONERS

AND

1 The District Collector,
Khammam District, Khammam.
2 The Executive Engineer,
PWD, I.B. Division, Khammam.
3 The Dy. Executive Engineer, PWD I.B. Division,
Sathupally.
4 The Asst. Engineer, PWD IB Division,
Kalluru, Kalluru Mandal, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in raising the existing culvery (Alugu) and bund as highly illegal, Arbitrary, unjust and against the principles of natural justice and Consequently direct the Respondents not to raise the Culvery (Alugu) and bund of Yerra Cheruvu.

Counsel for the Petitioners: MR.BADANA.BHASKARA RAO

Counsel for the Respondents: GP FOR IRRIGATION.

The Court made the following:

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Irrigation.

This writ petition is filed seeking to declare the action of the respondents in raising the existing culvert (Alugu) and bund of “Yerra Cheruvu” in Godavaram village, Kalluru Mandal of Krishna District, as illegal and arbitrary, and consequently to direct the respondents not to raise the same. It is stated that if the height of the culvert (Alugu) and bund is raised, the entire lands of the petitioners situated in Survey Nos.60/AA and 51/EE of Godavaram village will be submerged. Hence, the writ petition.

The second respondent filed a counter-affidavit denying the allegations made in the affidavit filed in support of the writ petition. It is stated that Survey Nos.60/A and 51/E of Godavaram village are not located within the tank bed of "Erra Cheruvu”. There is a weir called “Alugu” on the extreme right flanks of the tank to let out floodwater when the tank is at full level. The weir has no body wall, and during “Janma Bhoomi” programme construction of body wall for the weir up to the existing full tank level is proposed to make pucca arrangement in order to dispose of floodwater safely and quickly. The lands of the petitioners are not touched in the said construction. It is stated that the height of “Alugu” (weir) is not at all raised, and so there is no question of submergence of and damage to the petitioners’ lands. The petitioners filed this writ petition only on mere apprehension and false notions. Thus, the second respondent prays to dismiss the writ petition.

Having regard to the facts and circumstances of the case, and in view of the averments in the counter-affidavit filed by the second respondent that the height of

“Alugu” (weir) is not raised and body wall of the weir is proposed to be constructed up to the existing full tank level to let out floodwater safely and quickly, and that the lands of the petitioners are not located within the tank bed and they are not touched in the proposed construction, the contention of the petitioners that their lands will be submerged if the proposed construction is allowed to proceed, cannot be sustained. There are no merits in the writ petition.

Therefore, the writ petition is dismissed. No costs.

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N.V. RAMANA, J

Date: 22-03-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector,
Khammam District, Khammam.
2 The Executive Engineer,
PWD, I.B. Division, Khammam.
3 The Dy. Executive Engineer, PWD I.B. Division,
Sathupally.
4 The Asst. Engineer, PWD IB Division,
Kalluru, Kalluru Mandal, Khammam Dist.

5 Two C.Cs to the Government Pleader for Irrigation, High Court Buildings, Hyderabad.

6 Two C.D.copies.

*Form-NIC-OGS/WP{**JPK**}*